



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 24]

नई दिल्ली, मंगलवार, मई 22, 1990/ चैष्ठ 1, 1912

No. 24]

NEW DELHI, TUESDAY, MAY 22, 1990/JYAISTHA 1, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 22nd May, 1990:—

BILL No. 94 OF 1990

A Bill to constitute a National Commission for Women and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Commission for Women Act, 1990.

Short
title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Commission" means the National Commission for Women constituted under section 3;

(b) "Member" means a Member of the Commission and includes the Member-Secretary and a Member co-opted under sub-section (3) of section 3;

(c) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR WOMEN

Constitution of the National Commission for Women.

3. (1) The Central Government shall constitute a body to be known as the National Commission for Women to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of—

(a) a Chairperson to be nominated by the Central Government from a panel of eminent persons committed to the cause of women prepared in such manner as may be prescribed;

(b) five Members to be nominated by the Central Government from amongst the persons of ability, integrity and standing who have had professional experience in—

(i) law or legislation (including in legal bodies);

(ii) trade unionism, management of an industry or organisation committed to increasing the employment potential of women;

(iii) women's voluntary organisations (including women activists);

(iv) administration or economic development;

(v) health, education or social welfare;

(c) one Member-Secretary who shall be—

(i) an expert in the field of management, organisational structure or sociological movement, or

(ii) an officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.

(3) Notwithstanding anything contained in sub-section (2),—

(a) one person belonging to a Scheduled Caste shall be co-opted as a Member, if no person belonging to a Scheduled Caste has been nominated under that sub-section;

(b) one person belonging to a Scheduled Tribe shall be co-opted as a Member, if no person belonging to a Scheduled Tribe has been nominated under that sub-section,

and every person so co-opted shall have the right to attend the meetings of the Commission and take part in its proceedings and shall also have the right to vote.

4. (1) The Chairperson and every Member shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf.

Term of office and conditions of service of Chairperson and Members.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may terminate the term of office of the Chairperson or a Member at any time before the expiry of the term specified under sub-section (1) by giving to the Chairperson or the Member, notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and the Chairperson or the Member may relinquish the office at any time before the expiry of the term specified under sub-section (1) by giving, to the Central Government, notice of not less than three months in writing.

(3) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.

(4) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

5. (1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

Officers and other employees of the Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Commission shall be such as may be prescribed.

6. The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the Commission, shall be defrayed out of the Consolidated Fund of India.

Salaries and allowances to be defrayed out of the Consolidated Fund of India.

7. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of the Commission.

8. (1) The Commission may appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.

Committees of the Commission.

(2) The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not Members of the Commission, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(3) The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the committee as may be prescribed.

Procedure to be regulated by the Commission.

9. (1) The Commission or a committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure and the procedure of the committees thereof.

(3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

CHAPTER III

FUNCTIONS OF THE COMMISSION

Functions of the Commission.

10. The Commission shall perform all or any of the following functions, namely:—

(a) study, investigate and review all matters relating to the safeguards provided for women under the Constitution and other laws and make recommendations as to the steps that should be taken by the Government for the effective implementation of the safeguards so provided so as to improve the conditions of women;

(b) review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;

(c) take up the cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;

(d) look into complaints and take *suo moto* notice of matters relating to—

(i) deprivation of women's rights;

(ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women,

and take up the issues arising out of such matters with appropriate authorities;

(e) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;

(f) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres

and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;

(g) inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;

(h) fund litigation involving issues affecting a large body of women;

(i) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;

(j) any other matter which may be referred to it by the Central Government.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

11. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Grants
by the
Central
Govern-
ment.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

12. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts
and
audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

Annual
report.

13. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual
report
and
audit
report
to be
laid
before
Parlia-
ment.

14. The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

Chair-
person,
Members
and
staff of
the Com-
mission
to be
public
servants.

15. The Chairperson, the Members, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1880.

Directions
by the
Central
Govern-
ment,

16. The Commission shall carry out such directions as may be issued to it from time to time by the Central Government for proper and efficient functioning of the Commission.

Power
to make
rules.

17. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of preparation of the panel of eminent persons under sub-section (2) of section 3;

(b) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (4) of section 4 and of officers and other employees under sub-section (2) of section 5;

(c) allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;

(d) the form in, which the annual statement of accounts shall be maintained under sub-section (1) of section 12;

(e) the form in and the time at, which the annual report shall be prepared under section 13;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session,

for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Successive Commissions on Women have noted in their Reports the unequal status of women obtaining in every sphere of life and had suggested the setting up of an agency to fulfil the surveillance functions as well as to facilitate redressal of grievances of women. Several women activists and voluntary action groups have also been making persistent demands for setting up of a commission for women. The country cannot progress as long as the inequality persists with reference to half of its population. Having realised the importance of the issue, the Government decided to set up a commission for women, to be called the National Commission for Women, consisting of a Chairperson and six Members.

2. The main task of the Commission shall be to study and monitor all matters relating to the constitutional and legal safeguards provided for women, to review the existing legislations and suggest amendments, wherever necessary. It will also look into the complaints and take *suo moto* notice of the cases involving deprivation of the rights of women in order to provide support, legal or otherwise, to hapless women. The Commission shall monitor the proper implementation of all the legislations made to protect the rights of women so as to enable them to achieve equality in all spheres of life and equal participation in the development of the nation.

3. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 10th May, 1990.

RAM VILAS PASWAN.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up a National Commission for Women. Clauses 6, 10(h), 11(2) and 12(2) provide for expenses to be met by the Commission on various items referred to in those clauses from out of the sums of grants paid to the Commission under clause 11(1).

2. Rupees two crores have been provided for in the budget estimates for 1990-91 of the Department of Women and Child Development of the Ministry of Welfare for setting up of the Commission. The expenditure, recurring and non-recurring, which may be incurred during the year 1990-91 on the Commission shall be met out of the payments to be made from the amount of rupees two crores out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for matters, such as—

(a) the manner of preparation of the panel of eminent persons under sub-section (2) of section 3;

(b) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (4) of section 4 and officers and other employees under sub-section (2) of section 5;

(c) allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;

(d) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 12;

(e) the form in, and the time at, which the annual report shall be prepared under section 13;

(f) any other matter which is required to be, or may be, prescribed.

2. The matters in respect of which rules may be made are matters of procedural and administrative detail and it is not practicable to provide for them under the Bill itself. The delegation of the legislative powers is, therefore, of a normal character.

BILL NO. 97 OF 1990

A Bill further to amend the Advocates Act, 1961.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

1. This Act may be called the Advocates (Amendment) Act, 1990.

Short
title.

25 of 1961.

2. In section 6 of the Advocates Act, 1961 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 6.

(i) in sub-section (1),—

(a) after clause (d), the following clause shall be inserted, namely:—

“(dd) to promote the growth of Bar Associations for the purposes of effective implementation of the welfare schemes referred to in clause (a) of sub-section (2) and clause (a) of sub-section (2) of section 7;”;

(b) after clause (g), the following clause shall be inserted, namely:—

“(gg) to visit and inspect Universities in accordance with the directions given under clause (i) of sub-section (1) of section 7;”;

(ii) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

“(c) establishing law libraries.”.

Amend-
ment of
section 7.

3. In section 7 of the principal Act,—

(i) in sub-section (1), in clause (i), after the words “inspect Universities”, the words “or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf” shall be added;

(ii) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—

“(c) establishing law libraries.”.

Amend-
ment of
section 8.

4. In section 8 of the principal Act, sub-section (2) shall be omitted.

Insertion
of new
section
8A.

5. After section 8 of the principal Act, the following section shall be inserted, namely:—

Constitu-
tion of
Special
Com-
mittee
in the
absence
of elec-
tion.

“8A. (1) Where a State Bar Council fails to provide for the election of its members before the expiry of the period of five years referred to in section 8, the Bar Council of India shall, on and from the day immediately following the day of such expiry, constitute a Special Committee consisting of—

(i) the *ex officio* member of the State Bar Council referred to in clause (a) of sub-section (2) of section 3, to be the Chairman;

Provided that where there are more than one *ex officio* members, the senior-most amongst them shall be the Chairman; and

(ii) two members to be nominated by the Bar Council of India from amongst advocates on the electoral roll of the State Bar Council,

to discharge the functions of the State Bar Council until the Bar Council is constituted under this Act.

(2) On the constitution of the Special Committee and until the State Bar Council is constituted—

(a) all properties and assets vesting in the State Bar Council shall vest in the Special Committee;

(b) all rights, liabilities and obligations of the State Bar Council, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations of the Special Committee;

(c) all proceedings pending before the State Bar Council in respect of any disciplinary matter or otherwise shall stand transferred to the Special Committee.

(3) The Special Committee constituted under sub-section (1) shall, in accordance with such directions as the Bar Council of India may give to it in this behalf, hold election to the State Bar Council within a period of six months from the date of its constitution under sub-section (1), and where, for any reason the Special Committee is not in a position to conduct election within the said period of six months, the Bar Council of India may, for reasons to be recorded by it in writing, extend the said period."

6. In section 10A of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section
10A.

"(1) The Bar Council of India shall meet at New Delhi or at such other place as it may, for reasons to be recorded in writing, determine.

(2) A State Bar Council shall meet at its headquarters or at such other place as it may, for reasons to be recorded in writing, determine."

7. In section 24 of the principal Act, in clause (f) of sub-section (1),—

Amend-
ment of
section 24.

(i) in the opening portion, for the words "two hundred and fifty rupees", the words "six hundred rupees and to the Bar Council of India, one hundred and fifty rupees by way of a bank draft drawn in favour of that Council;" shall be substituted;

(ii) in the proviso, for the words "one hundred and twenty-five rupees", the words "one hundred rupees and to the Bar Council of India, twenty-five rupees" shall be substituted.

8. In section 24A of the principal Act, in sub-section (1),—

(i) after clause (b), the following clause shall be inserted, namely:—

Amend-
ment of
section
24A.

'(c) if he is dismissed or removed from employment or office under the State on any charge involving moral turpitude.

Explanation.— In this clause, the expression "State" shall have the meaning assigned to it under article 12 of the Constitution:—

(ii) in the proviso, for the word "release", the words "release or dismissal or, as the case may be, removal" shall be substituted.

9. Section 46 of the principal Act shall be omitted.

Omission
of sec-
tion 46.
Amend-
ment of
section
52.

10. In section 52 of the principal Act, in clause (b), for the word "act", the words "act or plead" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

On the basis of various proposals made by the Bar Council of India and certain other bodies and the experience gained in the administration of the Advocates Act, 1961, it is found necessary to amend the Act with a view to enabling the Bar Council of India and the State Bar Councils to function more effectively for the betterment of the legal profession.

The Bill proposes, *inter alia*, to—

(i) empower the State Bar Councils to promote the growth of Bar Associations for purposes of implementing the welfare schemes for advocates and to visit and inspect Universities on the directions of the Bar Council of India, and to constitute funds for establishing law libraries;

(ii) provide for automatic cessation of membership of members of the State Bar Councils in the event of non-holding of elections within the stipulated period and for making consequential arrangements;

(iii) enable the Bar Council of India and the State Bar Councils to meet at places other than their respective headquarters;

(iv) increase the enrolment fee from two hundred and fifty rupees to seven hundred and fifty rupees without disturbing the fee payable at present by persons belonging to the Scheduled Castes or the Scheduled Tribes;

(v) empower the State Bar Councils not to admit a person as an advocate on a State roll if he has been dismissed or removed from any employment or office under the State on a charge involving moral turpitude;

(vi) empower the Supreme Court of India to make rules for determining the persons who shall be entitled to plead before that Court.

2. The Bill seeks to achieve the above objects.

NEW DELHI;

The 15th May, 1990.

DINESH GOSWAMI.

SUBHASH C. KASHYAP,
Secretary-General.